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Second special session

SUMMARY RECORD OF THE 4th MEETING

Held at the Palais des Nations, Geneva, on
Tuesday, 1 December 1992, at 3.00 p.m.

Chairman: Mr. SOLT (Hungary)

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Report to the Economic and Social Council on the second special session

Closure of the session

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GE.92-14794 (E)

The meeting was called to order at 3.45 p.m.

LETTER DATED 16 NOVEMBER 1992 FROM THE AMBASSADOR OF THE REPUBLIC OF TURKEY TO THE REPUBLIC OF HUNGARY ADDRESSED TO THE CHAIRMAN OF THE COMMISSION ON HUMAN RIGHTS AND LETTER DATED 18 NOVEMBER 1992 FROM THE CHARGE D'AFFAIRES A.I. OF THE PERMANENT MISSION OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS OFFICE AT GENEVA ADDRESSED TO THE UNDER-SECRETARY-GENERAL FOR HUMAN RIGHTS (agenda item 3) (continued) (E/CN.4/1992/S-2/2; E/CN.4/1992/S-2/3; E/CN.4/1992/S-2/4; E/CN.4/1992/S-2/5; E/CN.4/1992/S-2/L.2)

1. Mr. GURBARTALLA (Observer for Sudan) said it was gratifying that the Commission on Human Rights was holding a second special session which, he hoped, would be more decisive and fruitful than the previous one, since the international community judged the United Nations by what it was doing to protect an entire people from genocide. A first step, which in his view was of crucial importance, would be to make a distinction between the Serbian aggressors and the Bosnian victims of organized genocide. That would constitute considerable progress in relation to the first special session. Unfortunately it would seem that double standards and a selective approach were used in dealing with human rights matters. If, as it claimed, the Commission on Human Rights represented the world's conscience, it should resolutely condemn the crime of genocide and urge the General Assembly and Security Council to take effective action to protect the people of Bosnia and Herzegovina.

2. The Special Rapporteur had courageously tried to identify the most pressing problems, such as the particularly dramatic situation in Bosnia and Herzegovina. He had said that UNPROFOR was unable to protect the affected population adequately and to put an end to human rights violations, and that immediate concerted action was required to prevent the aggravation of the situation. He had proposed a number of specific measures and had laid particular emphasis on the need for the systematic collection of documentation on the crimes committed and personal data concerning those responsible for human rights violations so that they could be brought to justice and further violations prevented.

3. His delegation considered that the Commission's deliberations should give rise to historic and decisive decisions, namely, the Security Council should be requested to adopt decisions as rapidly as possible that would put an end to Serbian aggression and save the Muslim people of Bosnia and Herzegovina as well as the other minorities that were at risk in the region, steps should be taken forthwith to liberate besieged villages and to give humanitarian organizations access to them, those responsible for the policy of ethnic cleansing and genocide should be brought to justice without delay, the international protective force should be increased and its effectiveness enhanced, the Serbian authorities responsible should be condemned unequivocally and international measures taken to put and end to their aggression against the people of Bosnia and Herzegovina, the inhabitants of Bosnia should be allowed to defend themselves by every possible means, the deterioration of the situation should be prevented, measures taken to combat genocide under the provisions of Article 51 of the Charter of the United Nations, and the sovereignty of the State of Bosnia protected. If those various measures were to be successful, however, all countries, and

particularly the European countries near to the former Yugoslavia must open their doors unconditionally to all persons fleeing the nightmare of the fighting and to protect them until the crisis was over.

4. In conclusion, he noted that although the draft resolution under consideration clearly constituted a step in the right direction, it was not forceful enough since it failed to indicate what measures should be taken and did not expressly condemn the crime of genocide and those responsible for it; for that reason, it would neither prevent the deterioration of the situation nor promote the settlement of the crisis nor yet help the Bosnian people who were experiencing the most terrible massacre that had taken place since the Second World War. Condemnation was not enough; what was needed was the will to put an end to the aggression against the people of Bosnia and Herzegovina.

5. Mrs. BARKI (International Progress Organization) said that nothing had been done since the Commission's first special session of August 1992 to put an end to the war of aggression being waged by Serbia. The United Nations had remained passive and the Geneva talks led by Mr. Vance and Mr. Owen had resulted in nothing. Serbia was pursuing its plan of ethnic cleansing and with every passing day was coming closer to its goal of setting up an ethnically homogenous greater Serbia. Rumour had it that ethnic cleansing was also beginning in Sandjak, that Serbian troops were being moved to Kosovo and that massive Serbian settlements were under way in the Hungarian parts of Vojvodina.

6. Fundamental human rights principles had been violated for more than one and a half years and all the responsible international organizations as well as the international community had watched almost impassively as Serbia used the most brutal forms of violence in order to attain its objectives. The only effective measure that the United Nations had taken was to impose an embargo on the sale of arms to Croatia and Bosnia and Herzegovina, which in fact prevented Bosnia from exercising its right to legitimate self-defence under Article 51 of the Charter. That unjustified embargo which, in the view of some, was even criminal, must be lifted.

7. The International Progress Organization was deeply concerned by the unbelievable and unimaginable atrocities being committed against the civilian population of Bosnia and Herzegovina and which took the form of concentration camps, disappearances and massacres. Referring to the mass grave discovered at Ovcara, she drew attention to the specific and detailed accusations made recently by a major French newspaper against General Veselin Sljivanchanin, who should be one of the first persons to be brought before a war crimes tribunal.

8. Her Organization urged the Commission to consider setting up an international tribunal to investigate serious human rights violations, war crimes, crimes against humanity and the crime of genocide along the lines of the Nuremberg Tribunal, whose judgements had become part of international law. Not only the Government and armed forces of Serbia, but also all Governments and high officials who had aided and abetted war crimes should be brought before a high court of justice. States and officials who did nothing to put an end to such crimes should reflect on the matter.

9. Her Organization also urged the United Nations to take all necessary action in accordance with Chapter VII of the Charter, including the use of force and military intervention, to protect the territorial integrity of a sovereign Member State, the legitimate rights of the inhabitants of the region and their lives. If it failed to act promptly, the Security Council would be proving that those who accused it of using double standards were right. What was at stake was the credibility of the United Nations.

10. Mr. MILOSEVIC (World Federalist Movement) said that the Serbian people were also victims of the civil war in Bosnia and Herzegovina and of human rights violations on the territory controlled by Muslim and Croatian forces. Notwithstanding the efforts of the Security Council, the two Co-Chairmen of the International Conference on the Former Yugoslavia, the European Community and the Commission on Human Rights, which had appointed a Special Rapporteur on the matter, little progress had been made in the search for peaceful solutions to the conflict that had continued in the former Yugoslavia since the Commission's first special session in August 1992. The main reason was that, instead of playing the role of impartial mediator between the parties, certain bodies of the United Nations and the European Community were acting as prosecutors and judges and designating the Serbian people as the only one responsible for the problem by accusing it of nationalism, hegemonism and a deliberate desire to appropriate the territory of other States. The international community overlooked the fact that over a million Serbs had been obliged to leave their homes and that 600,000 of them had fled Bosnia and Herzegovina and Croatia to seek refuge in the Republic of Serbia. In addition to the economic sanctions imposed on them, the Serbian people were being subjected to various kinds of international and internal pressure. They had been isolated and cut off from the rest of the world in the interest of restoring peace in the region.

11. In order to obtain objective information about the actual human rights situation in the territory of the former Yugoslavia, and particularly in Bosnia and Herzegovina, the Commission on Human Rights had appointed Mr. Mazowiecki as Special Rapporteur to establish contact with the authorities of the Governments concerned and the international and non-governmental organizations on the spot. However, the Special Rapporteur had focused his investigations on Serbian territory, paying scant attention to the territory controlled by the Croatian and Muslim forces of Bosnia and Herzegovina. On the basis of the testimony of a few persons, he had extrapolated his conclusions, making the Serbian authorities of Bosnia and Herzegovina responsible for all the atrocities committed in the region and saying virtually nothing about the human rights violations and war crimes perpetrated against the Serbian population on the territory of Bosnia and Herzegovina. Moreover, the Special Rapporteur had failed to mention in his reports the efforts made by the Government of the Republic of Serbia to combat war crimes by means of the laws that it had promulgated on the subject and that it was applying throughout the territory of the Republic. He had levelled unfounded charges against the Serbian authorities of Bosnia and Herzegovina, accusing them of not collaborating with the representatives of the United Nations and other international organizations on their territory. Furthermore, he had overstepped the mandate he had received in Commission resolution 1992/S-1/1 by formulating political judgements about the situation in the former Bosnia and Herzegovina and, in his third report, he had taken absolutely no account of

the observations made concerning his two previous reports by the authorities of the Republic of Serbia. It was for that reason that they had expressed considerable reservations concerning the Special Rapporteur's work which, in their view, seemed to reflect extreme partiality.

12. That partiality had not, moreover, escaped the attention of various delegations participating in the work of the Commission's second special session. The representative of the Russian Federation had, for example, pointed out that not only the destruction of mosques and Catholic churches but also that of Orthodox Serbian churches should be condemned, and had emphasized the need to examine the human rights problem in Kosovo in the light of applicable international norms as well as the laws and Constitution of the country in question, namely, the Republic of Serbia.

13. In the view of the World Federalist Movement, United Nations bodies should contribute to a peaceful settlement of the conflict in Bosnia and Herzegovina which also took into account the basic interests of the Serbian people by 1. appealing to the three parties to the conflict to proclaim an immediate and unconditional cease-fire in Bosnia and Herzegovina, 2. calling upon United Nations forces to separate the three parties to the conflict, 3. organizing forthwith talks between the three parties at the highest level without prior conditions, 4. helping to create a federal State comprising the three ethnic groups with well-defined territory in the former Bosnia and Herzegovina, 5. organizing political negotiations between the supreme authorities of the Republic of Croatia and the legitimate authorities of the Serbian Republic of Krajina with a view to the self-determination of the Serbian population on the territory of former Croatia, 6. enabling representatives of the Republic of Serbia and the Serbian Republic of Krajina to participate fully in the International Conference on the Former Yugoslavia, and 7. lifting the unjust economic sanctions imposed on Yugoslavia.

14. Mr. ZMERLI (International Federation of Human Rights) noted that, according to the first article that was common to the 1949 Geneva Conventions, States parties were under an obligation to respect and ensure respect for humanitarian law. Yet the international community was far from discharging that obligation in the former Yugoslavia, even though it had been decided to provide considerable humanitarian assistance which, no doubt, despite obstacles hampering its transport was providing some relief to the victims which were fortunate enough to receive it. Yet humanitarian relief did not prevent those responsible for crimes from continuing their work with impunity and, in the view of some, even enabled them to do so. Crimes against humanity were being committed and it was for that reason that the International Federation considered that an all-out attack should be launched against impunity immediately and resolutely because, even if it did not put an end to barbarism then at least it would prevent its extension.

15. The achievement of that objective comprised three stages, namely, establishment of the facts, establishment of responsibility, and legal proceedings and the punishment of violations of international law. As a result of the exemplary work carried out in particular by the Commission's Special Rapporteur and his team as well as by the non-governmental organizations, the great majority of the facts were known and documented. The Commission should therefore press ahead along those lines and provide the

Special Rapporteur with the means to extend his activities. As for the establishment of responsibility, the International Federation regretted that the international community had attached greater importance to political action, by establishing a Commission of Experts, than to legal action through the Fact-Finding Commission provided for in article 90 of Protocol I, additional to the Geneva Conventions. Only Croatia and Slovenia had expressly recognized the competence of the Fact-Finding Commission. Bosnia and Herzegovina and Serbia had for their part officially approved the establishment of the Commission of Experts, thereby publicly manifesting their desire to have war criminals prosecuted and punished, and the International Federation hoped that they would recognize the competence of the Fact-Finding Commission just as quickly. Since that Commission was at the present time the only body whose activities could result in punishment being meted out to persons responsible for serious human rights violations, the International Federation called upon the Commission on Human Rights to request States to refer to it as a matter of urgency. Although it had no jurisdictional functions, the Commission of Experts set up by the Security Council could also, by working in close cooperation with the Special Rapporteur, help to end impunity by determining the responsibility of persons committing various acts. Regular publication of its conclusions could have a considerable preventive impact and the International Federation invited the Commission on Human Rights to consider the matter closely.

16. Mrs. LOCHBIHLER (Women's International League for Peace and Freedom) said that the convening of a second special session of the Commission on Human Rights revealed the international community's deep concern about human rights violations in the territories of the former Yugoslavia. The Women's International League, which had been created during the First World War to protest against that conflict and the destruction it entailed, took the view that war itself constituted a fundamental violation of human rights and regretted that the international community had failed to take resolute political and economic measures that might have prevented the conflict in the former Yugoslavia.

17. It was the civilian population, and particularly women and children, who suffered the most in all wars and armed conflicts. Women in particular were the main victims of a particularly heinous crime, namely, rape, to which the Special Rapporteur unfortunately made only a fleeting reference in his second report. According to certain reports from women and women's groups, 37,000 women had been raped by Serbian soldiers during the previous six months in Bosnia and Herzegovina. Those figures must, of course, be verified but there was little doubt that rape was practised on a massive scale and was part of a military strategy. Although the information in question came primarily from Croatian sources, the Women's International League knew that in all military conflicts rape was a current practice and a crime committed by all parties. For that reason, the Women's International League called upon the Commission to do everything in its power to see that rape was declared a crime against humanity and punished as a war crime, that the International Court of Justice was mandated to hear and try cases of rape as a violation of the Geneva Convention or that serious steps were taken by the community of United Nations Member States to establish an international criminal court to deal with such crimes, that victims of rape in the territory of the former Yugoslavia were given shelter by neighbouring countries and helped in dealing

with their situation in the way they chose, that one or more women experts accompanied the Special Rapporteur on all future missions to the former territory of Yugoslavia (because it was difficult for most women to speak to a man about specific violations against them) and, lastly, that the rape-camps were denounced as a violation of the Geneva Convention and that a special commission was established to investigate their locations and take steps to set the women free.

18. Above all, the Women's International League called upon all Governments to take peaceful political measures that would bring the war in the former Yugoslavia to a rapid end.

19. Mr. QUINLAN (Caritas Internationalis), speaking also on behalf of the International Catholic Child Bureau, thanked Mr. Mazowiecki, the Special Rapporteur, for the efforts he had made in discharging his functions. His three reports on the human rights situation in the territory of the former Yugoslavia provided a clear picture of the plight of thousands of human beings in that country and in particular of the innocent and the most vulnerable, namely, the children, whose very survival was at stake, as emphasized by the Special Rapporteur himself in paragraph 55 of his third report (A/47/666). Caritas Internationalis also endorsed the Special Rapporteur's recommendation that the right of refugees and displaced persons to return should be reaffirmed and protected (para. 144) and that all necessary efforts should be made to prevent the imminent death of tens of thousands of persons living in besieged cities and areas (para. 145).

20. In carrying out its humanitarian programmes, Caritas Internationalis had, since July 1991 and through Caritas Austria, provided the population of the former Yugoslavia with humanitarian aid valued at US$ 30 million; that was in addition to the bilateral assistance made available inter alia by Caritas Germany, Caritas Italy and Secours Catholique of France. Caritas Internationalis appealed to all parties to the conflict to refrain from deliberate interference with the delivery of humanitarian assistance by all those who were able and willing to help the victims of the conflict. The right to life was an intangible right, and the international community was under a responsibility to relieve the human suffering of those most in need.

21. Mr. WADLOW (International Fellowship of Reconciliation) regretted that the representatives of non-governmental organizations had not been consulted during the preparation of the draft resolution that had been distributed to participants. In that draft, the Commission recalled with appreciation the continuing efforts of the International Conference on the Former Yugoslavia, including the proposal "for the constitution of the Republic of Bosnia and Herzegovina". Yet it was common knowledge that the recognition and independence of the Republics of the former Yugoslavia could be envisaged only in the framework of an overall settlement. How could a partial measure be appreciated without seeing clearly the overall settlement? If the non-governmental organizations were to play a useful role in efforts to halt the violence in the territory of the former Yugoslavia they must be more adequately prepared to do so by analysing and presenting as objectively as possible the positions of all the protagonists. But what was even more important was whether the draft resolution would help to bring an end to the

violence and set the stage for a compromise solution, for the longer the violence lasted the more hatred would grow and the watchword would not be justice but revenge.

22. That compromise solution was based on three essential considerations. First, the position of all those who, on the territory of the former Yugoslavia, were working for a compromise settlement should be strengthened since such individuals existed and they should be helped in making their voices heard. To that end, nothing should be done to support those who, on the outside, called for the use of armed force and advocated military solutions as a means of settling the question. Secondly, emphasis should be placed on the need to safeguard the human rights of the individual regardless of national status, class, religion or language. The tragedy of the former Yugoslavia had highlighted the failure of the concept of "collective rights"; it was the rights of the individual which were clearly set out in the Universal Declaration of Human Rights that should be protected. Thirdly, extension of the conflict to neighbouring countries should be prevented and, consequently, the necessary steps taken to end the fighting and the flow of refugees, as well as internal repression, as quickly as possible, and peace restored at the cost of certain compromises, providing that human rights were not sacrificed.

23. In that respect, the International Fellowship drew attention to four points formulated in the draft resolution which, in its opinion were of crucial importance for the future, namely, the capacity of the Special Rapporteur, the thematic rapporteurs and the staff of the Centre for Human Rights should be strengthened so as to enable them to collect and evaluate information from all areas of the former Yugoslavia. Arrangements should be made to station United Nations human rights monitors permanently on the territory of the former Yugoslavia in order to ensure effective and continuous monitoring of the human rights situation, close cooperation should be developed between the Centre for Human Rights, non-governmental organizations and the Commission of Experts set up by Security Council resolution 780 (1992) so that all persons accused of war crimes and crimes against humanity could be brought to justice and, lastly, the creation of adequate institutions for the protection of individual human rights should be encouraged within all States arising out of the former Yugoslavia along the lines of the machinery proposed for Bosnia and Herzegovina in the Secretary-General's report on the International Conference on the Former Yugoslavia (S/24795).

24. In conclusion, the International Fellowship of Reconciliation considered that hasty decisions should be avoided and that patient and persistent work was required in order to meet the expectations and needs of all individuals from the area of the former Yugoslavia. The work being done by the Commission on behalf of the former Yugoslavia would not fail to inspire hope in all peoples who, throughout the world, suffered from violence, repression and ethnic conflicts. He sincerely hoped that the Commission would act just as forcefully wherever violations occurred.

25. Mr. PAVITCEVIC (Yugoslavia), speaking in exercise of the right of reply, said that most speakers had displayed understanding and expressed sincere concern about the conflict in the former Yugoslavia. That was all the more important because the conflict was not confined to the Federal Republic of

Yugoslavia but concerned all parts of what had constituted a common homeland for 70 years. However, it appeared that some wished to prevent the Federal Republic of Yugoslavia from protecting that part of its population which was threatened by those responsible for the armed insurrection. Why had strictly nothing been said about the tens of thousands of Serbian victims? It should be borne in mind in that connection that the Federal Republic of Yugoslavia was the only State of the former Yugoslavia that had not proclaimed itself a uninational State, unlike Croatia and Slovenia. Indeed, it seemed that one of the reasons for the present tragedy was that only the Serbian nation had been unable to exercise its right to self-determination.

26. Moreover, if someone had reason to be concerned by the fact that the initiative for the present discussion had been Turkey's it was not Yugoslavia but rather the international community as a whole. Need it be said that the human rights situation in Turkey was a complete catastrophe? Not even the Conference Room in which the Commission was meeting was large enough to hold all the documents attesting to violations of individual rights in that country! Turkey talked of genocide and ethnic cleansing, but the problem of Armenian schools and that of Greek Cypriots was only too well known.

27. The CHAIRMAN reminded the speaker that, in accordance with article 43, paragraph 2, of the rules of procedure of the technical commissions of the Economic and Social Council, the debate must be confined to the question before the Commission.

28. Mr. PAVITCEVIC (Yugoslavia) pointed out that the military intervention in Bosnia and Herzegovina advocated by Turkey and other countries would certainly not constitute a solution, particularly in the Balkan region.

29. Albania too had accused the Federal Republic of Yugoslavia of ethnic cleansing in Kosovo. It was perhaps worth noting that the most radical ethnic cleansing in Europe had been proceeding in Kosovo for 50 years, because the proportion of Serbs and Montenegrans there had declined from 75 per cent to less than 10 per cent. The Geneva talks between the Serbian and Yugoslav authorities and the representatives of the Kosovo Albanians should continue, and he observed that the Serbian and Yugoslav Ministers of Education would be present the following day in Geneva to participate in a working group in order to pursue a dialogue that was more likely to result in a solution than unfounded allegations or threats. If anyone was refusing to participate in the dialogue it was not the Yugoslav authorities but the Albanian authorities who opposed the organization of free elections and censuses in Yugoslavia and Serbia, and who were encouraging Albanian children not to attend school. Yet no one was preventing the Albanians from professing their religion and there were over 500 mosques in Kosovo. All that proved that a democratic dialogue was possible.

30. The CHAIRMAN invited members of the Commission to consider draft resolution E/CN.4/1992/S-2/L.2.

31. Mr. ABRAM (United States of America) introduced draft resolution E/CN.4/1992/S-2/L.2 on behalf of the sponsors, which had been joined by the following countries: Afghanistan, Canada, Croatia, Gabon, Indonesia, Japan, Kuwait, New Zealand, Philippines, Qatar, United Arab Emirates and Uruguay.

The resolution condemned in the strongest language the ongoing violations of human rights in the former Yugoslavia, and in particular the ethnic cleansing for which the Serbian authorities were the ones primarily to blame. It called on all parties and particularly Serbia to use their influence to put an end to that practice and to allow refugees to return to their homes. All States were also requested to consider the extent to which ethnic cleansing and other practices constituted genocide under the Convention on the Prevention and Punishment of the Crime of Genocide.

32. Specific reference was made, in the operative part, to three major issues singled out the previous day by the Special Rapporteur, namely, closure of detention camps, the opening of humanitarian relief corridors and the creation of security zones to protect displaced persons. But, being action-oriented, the resolution also went further. It called for cooperation between the Special Rapporteur and the newly-created Commission of Experts which should be provided with the necessary staff and resources to be able to function efficiently. It reaffirmed the individual responsibility of persons who perpetrated or authorized crimes against humanity or other serious human rights violations. It called for an immediate and urgent investigation of the mass graves discovered in the former Yugoslavia. It encouraged the process of political negotiations under the auspices of the International Conference on the Former Yugoslavia. It requested the Special Rapporteur to continue his excellent work. It urged the Secretary-General to take steps to ensure the full and effective cooperation of all United Nations bodies dealing with those issues. Lastly, it requested the General Assembly and the Secretary-General to provide adequate resources for the Special Rapporteur and particularly in connection with his request for staff based in the territory of the former Yugoslavia to monitor the human rights situation. It was not a perfect text and was based on an initial draft drawn up by the Turkish and United States delegations which had undergone endless revision during many long hours of negotiation. All parties had had an opportunity to make suggestions, although it had not been possible to take all of them into account. The United States delegation was grateful to all those who had shown a spirit of conciliation and had agreed to sponsor the draft even if it did not coincide perfectly with their views. The proposed text could undoubtedly be improved, although any further modification at the present stage might well unravel the consensus achieved after so much effort and breach the united front that should be presented by the Commission on the problem.

33. He had been associated with the Commission's work for 30 years and could say with confidence that adoption of the draft resolution would constitute a milestone in its history. The draft resolution was one of the strongest and most far-reaching to come before the Commission but, in view of the situation in the former Yugoslavia, it was entirely appropriate. The Commission was building the future for better or worse, and he hoped that the draft resolution would be adopted by consensus.

34. The CHAIRMAN noted that the convergence of views on the matter before the Commission was well illustrated by the fact that the draft resolution was sponsored by 52 countries and that 50 speakers had taken the floor.

35. *Mr. PAVITCEVIC* (Yugoslavia), speaking in explanation of vote before the vote, said that the draft resolution under consideration was not acceptable to

his delegation, which had not been duly consulted. The Commission should act within the limits of its mandate in dealing with the situation in the former Yugoslavia as with similar situations, and should avoid politicizing what it did and encroaching upon the areas of competence of other United Nations bodies such as the Security Council and the General Assembly.

36. The judgements of a political nature and strong condemnations of only one part of the population of Bosnia and Herzegovina contained in the draft were not to be found in the resolutions adopted on the same subject by the Security Council and the General Assembly. The position of the Yugoslav authorities concerning responsibilities in the conflict was already known. Furthermore, it was unjustified to regard the Yugoslav army and, consequently, the Government of the Federal Republic of Yugoslavia, as being responsible for the conflict and the ethnic cleansing in Bosnia and Herzegovina. To say so was to attach little importance to Security Council resolution 787 (1992), which indicated clearly that there were no Yugoslav armed forces in Bosnia and Herzegovina. It was also unjustified to call upon one of the communities comprising the Federal Republic of Yugoslavia to put an end to the ethnic cleansing of minorities on its territory, since that implied that that practice had already been perpetrated there. Yet not one of the many international commissions had established the existence of acts of that kind in Yugoslav territory.

37. The draft resolution was therefore unacceptable as a whole because it was biased and because it might in future jeopardize cooperation with the Special Rapporteurs, particularly when they made unfounded allegations that would only have the effect of extending the conflict and perpetuating the tragedy taking place in the territory of the former Yugoslavia.

38. His delegation requested a roll-call vote in accordance with rules 57 and 59 of the rules of procedure, on draft resolution E/CN.4/1992/S-2/L.2, which it would be forced to reject.

39. Mr. ABRAM (United States of America) also requested a roll-call vote on the draft resolution before the Commission.

40. Mr. MAKEYEV (Russian Federation) said he endorsed the idea of a roll-call vote on the draft resolution, which his country had initially thought could be adopted by consensus. Very varied ideas had been put forward during the consultations that had taken place before the session and during the discussion, although he had hoped that tendentious statements could be avoided with a view to facilitating a positive solution conducive to respect for human rights in the former Yugoslavia by all parties to the conflict.

41. Although the Russian Federation could support the proposed text, which reflected many of its own ideas, as a whole, it appeared to include certain rather questionable elements. It was incorrect and partial, for instance, to state that the Republic of Serbia alone was responsible for human rights violations in the former Yugoslavia. Moreover, the affirmations made in paragraph 3 of the draft had been lifted mechanically from Mr. Mazowiecki's report, which was not ideal. The Commission was getting ready, without further verification, to adopt a text of a highly political nature which contained strong wording and fell more within the competence of the

Security Council. It would be better not to create a precedent by adopting a draft prepared hastily on the basis of a report circulated in the various languages only the day before the session. Other operative paragraphs also contained biased statements that might exacerbate the conflict. Paragraph 14, for example, referred to the practice of ethnic cleansing. Reverting to paragraph 3, he noted that the beginning was uncontroversial but said that if the second part, beginning with the words "recognizing that ..." were put to the vote separately, his delegation would have to abstain.

42. In a process as complex as that taking place in the former Yugoslavia, great caution was required, all views must be taken into account and more openness shown in respect of the Yugoslav authorities, whose cooperation was indispensable if the resolution was to be applied.

43. In reply to a question from Mr. ABRAM (United States of America), the CHAIRMAN said that, under rule 60 of the rules of procedure, representatives could make brief statements in explanation of their votes before the voting commenced.

44. Mr. KAMAL (Pakistan) thanked the Chairman for drawing attention to the normal procedure followed in the Economic and Social Council and other United Nations bodies.

45. The draft resolution before the Commission was both appropriate and timely, and its sponsors were to be congratulated since they had tried to prepare a text reflecting the gravity of the situation in the former Yugoslavia, and particularly in Bosnia and Herzegovina.

46. Yet the draft was deficient on two points. First, the wording of paragraph 12 was rather weak considering what was actually happening. Secondly, there was no reference anywhere to Chapter VII of the Charter and to the Security Council. Yet the Security Council had adopted decisions that must now be enforced under Article 42 of the Charter. Bosnia and Herzegovina was a Member State of the United Nations whose population was being subjected to inhuman treatment and threatened with extermination, and which had the legitimate right to individual or collective self-defence as provided for by Article 51 of the Charter. That could very well have been stated in the preamble to the draft text.

47. Despite those reservations, his delegation would vote in favour of the draft resolution.

48. Mr. NASSERI (Islamic Republic of Iran) repeated what his delegation had already stated during the debate, namely, that what was being violated was not only the human rights of a part of the population but also a United Nations Member State's right to self-defence. In so far as that right was denied, it was unlikely that the Commission could really advance the cause of the population of Bosnia and Herzegovina and in particular of the Muslims of that territory. His country therefore regretted that it had been unable to sponsor the draft as it had initially hoped to do because no reference was made to the Security Council. The wording of paragraph 12 was also a little too weak. Nevertheless, his delegation would be able to vote for the draft text.

49. The CHAIRMAN announced that Mexico had been listed by error as a sponsor of the draft resolution.

50. At the request of the representative of the United States and the representative of Yugoslavia, a vote was taken by roll-call on draft resolution E/CN.4/1992/S-2/L.2.

51. The Russian Federation, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Australia, Austria, Bangladesh, Brazil, Bulgaria, Canada, Chile, China, Colombia, Costa Rica, Cyprus, Czech and Slovak Federal Republic, France, Gabon, Germany, Ghana, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Italy, Japan, Kenya, Libyan Arab Jamahiriya, Madagascar, Mauritania, Mexico, Netherlands, Nigeria, Pakistan, Peru, Philippines, Portugal, Russian Federation, Senegal, Sri Lanka, Syrian Arab Republic, Tunisia, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Zambia.

Against: Yugoslavia.

Abstaining: Cuba.

52. Draft resolution E/CN.4/1992/S-2/L.2 was adopted by 45 votes to 1 with 1 abstention.

53. Mr. Y. JIN (China), speaking in explanation of vote, said that the armed conflicts which had continued in the territory of the former Yugoslavia and in particular in Bosnia and Herzegovina had resulted in a large number of refugees and displaced persons, a considerable loss of human life and indescribable destruction. His Government was particularly concerned by the maltreatment of civilians in violation of the Geneva Conventions. He urged the parties to the conflict to respect the common interests of all ethnic groups in Bosnia and Herzegovina and, with the help of the international community, to impose a genuine and immediate cease-fire so that a just settlement of the crisis could be achieved through dialogue and negotiation at an international conference that should be convened as rapidly as possible. He urged all the parties concerned to ensure strict respect of the principles embodied in the Charter of the United Nations, the Universal Declaration of Human Rights and all instruments for the protection of human rights, as well as in the rules of international humanitarian law.

54. China had voted for the draft resolution but considered that it lacked balance in the form it had been adopted. It should be borne in mind in particular that the terms of reference of various United Nations bodies had been clearly specified in the Charter and that human rights matters did not fall within the competence of the Security Council. The competence of the Commission on Human Rights was also clearly defined and should not be

exceeded. In that connection, paragraphs 10 and 18 of the resolution were worded in such a way that might give rise to confusion between the mandates of the two bodies. His delegation wished to express that reservation.

55. Mr. CHANDRA (India) said he had voted for the draft resolution in a spirit of cooperation, as well as in view of the flagrant and massive human rights violations committed in the territories of the former Yugoslavia and the exceptional and complex situation in the former Yugoslavia. The measures that had thus been adopted were of such scope that in point of fact they should have been taken at the express request and with the prior consent of the parties concerned. The adoption of that type of resolution should not create a precedent for the Commission.

56. The CHAIRMAN said that, in accordance with rule 69 of the rules of procedure and in view of the fact that members of the Commission had not raised any objection, he would give the floor to the observers for the Republics of Slovenia, Bosnia and Herzegovina and Croatia.

57. Mr. BEBLER (Observer for the Republic of Slovenia) said it was gratifying that the draft resolution had been adopted by such a vast majority. The results of the vote revealed how far the Serbian authorities had isolated themselves. By clearly condemning the serious violations of fundamental rights committed in the territories of the former Yugoslavia, the international community had demonstrated that it would not remain impassive when the fundamental values of mankind were flouted in a particularly odious manner.

58. The Serbian authorities had been mainly and, in certain cases, exclusively responsible for the policy of ethnic cleansing, that was comparable to genocide, as well as for serious violations of humanitarian law. It was therefore not only inaccurate from a factual standpoint but also morally unacceptable to attribute responsibility for those violations equally to all parties, as was apparently being done in paragraph 3 of the resoloution that had been adopted, since that suggested that all sides in the former Yugoslavia were violating human rights and international humanitarian law. The Republic of Slovenia for its part had fortunately not, for over a year and a half, been involved in the armed conflicts that had taken place on the territory of the former Yugoslavia and a large number of observers, such as those from the Council of Europe, had testified to the extent to which human rights and the rights of national minorities on its territory were being respected. Consequently, it considered that the provisions of paragraph 8 were not applicable to it. Subject to that reservation, his delegation was gratified by the adoption of the resolution and hoped that energetic steps would subsequently be taken to protect human rights fully in that region which was so seriously affected by the war.

59. Mr. BIJEDIC (Observer for the Republic of Bosnia and Herzegovina) said that the result of the vote on the draft resolution revealed that the overwhelming majority of members of the Commission earnestly hoped that all parties would cooperate frankly and courageously in the solution of the problems of the former Yugoslavia, that they had tried to designate clearly the aggressor and the aggressed as well as the victims of the genocide, and that they called for the punishment of those responsible. The result of the

vote also revealed that certain countries were still reluctant to face up to the facts for reasons that remained obscure, whereas virtually the entire international community had designated the aggressor and those responsible for the genocide. Although the adoption of the resolution represented a step in the right direction, it was nevertheless regrettable that those responsible for the genocide were not denounced more clearly in the text and that nothing was said about the urgency of creating a special international court to judge those responsible for crimes against humanity. Lastly, he regretted that the authors of the draft resolution had not recognized the right of a Member State of the United Nations to invoke Chapter VII of the Charter, authorizing it to defend its integrity and to prevent any aggressor from committing massive human rights violations on its territory.

60. Mr. MADEY (Observer for the Republic of Croatia) said it was gratifying to note that the draft resolution had been adopted by an overwhelming majority, which proved that the Commission had become aware of the urgency of going ahead and designating the main party responsible for the tragic situation prevailing in the former Yugoslavia and of the need to condemn those responsible for the aggression against sovereign States, for massive human rights violations, particularly in Bosnia and Herzegovina and in Croatia and for the barbaric policy of ethnic cleansing which in reality constituted genocide. It was to be hoped that the adoption of the resolution would lead to the adoption of further measures without waiting until the same problems had been considered at the Commission's next regular session for there was no doubt that the situation in Bosnia and Herzegovina and Croatia was such that the international community could no longer remain impassive.

61. Although his delegation was truly gratified by the adoption of the resolution, it was frankly not fully in favour of some of its provisions. In the preambular part, for example, the reference to the "conflict" in the former Yugoslavia and in Bosnia and Herzegovina appeared to suggest that the war taking place was a civil, ethnic and religious war, whereas in reality it was simply a war of aggression. Similarly, use of the words "Calls upon all parties ..." in paragraph 8 was not justified, since the Commission's discussions and the adoption of the resolution clearly indicated on which of the parties to the conflict the international community should concentrate its attention. On the other hand, the Republic of Croatia, which was participating in the International Conference on the Former Yugoslavia was in complete agreement with what was stated in paragraph 17, namely, that "all the parties in the former Yugoslavia share the responsibility for finding peaceful solutions ...". However, the situation was rendered difficult by the fact that one of the parties still disclaimed all responsibility, showing complete contempt for international opinion. It was nevertheless to be hoped that the message implicit in the adoption of the resolution at the Commission's present special session would be brought to the attention of the Serbian authorities and people in the hope that it would get them to put an end to their exactions.

62. The CHAIRMAN invited the observer for Turkey to present his final observations since the Commission was completing its consideration of agenda item 3.

63. Mr. AKTAN (Observer for Turkey) thanked the United States delegation for its cooperation, as well as all members of the Commission, observers and representatives of non-governmental organizations for having participated in the Commission's special session. Adoption of the draft resolution was in itself proof that the international community knew who was the aggressor, who were the victims and what was the nature of the crimes committed. It was only to be hoped that the responsible party that had been designated would draw the necessary lessons from the adoption of the resolution and from the conclusions reached by the Commission at its special session.

64. The CHAIRMAN announced that the Commission had thereby completed its consideration of agenda item 3.

The meeting was suspended at 5.45 p.m. and resumed at 7.10 p.m.

REPORT TO THE ECONOMIC AND SOCIAL COUNCIL ON THE SECOND SPECIAL SESSION (agenda item 4) (E/CN.4/1992/S-2/L.1)

65. Mrs. GALVIS (Colombia), Rapporteur, introducing the Commission's draft report on its second special session (E/CN.4/1992/S-2/L.1), said that delegations could transmit to the secretariat any observations they might wish to make in order to correct any errors or make good any omissions due to the speed with which the draft report had been prepared. Referring to paragraph 2, she noted that in the absence of a precedent for a State not a member of the Commission requesting the convening of a special session, it had been clearly indicated that the Government of the United States, which was a member of the Commission, had endorsed the Turkish Government's request.

66. She further noted that the square brackets in paragraph 7 should be deleted and that, in paragraph 23, it would be stated that Mr. Mazowiecki, the Special Rapporteur, had made a statement at the second special session and not at the first special session. Lastly, paragraphs 25 to 32 would be amended or supplemented as necessary in order to reflect the discussions.

67. The CHAIRMAN said that, in the absence of any objection, he would consider that the Commission decided to adopt the draft report on its second special session, subject to the changes that would be made by the secretariat and without a vote.

68. It was so decided.

CLOSURE OF THE SESSION

69. The CHAIRMAN, noting that the Commission had completed its work, thanked members for their cooperation and declared closed the second special session of the Commission on Human Rights.

The meeting rose at 7.20 p.m.